

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DONALD L. PALMER,
Petitioner,

[electronically filed]

-V-

**Case No. C-1-00-882
Judge Weber
Magistrate-Judge Merz**

MARGARET A. BAGLEY, Warden,
Respondent.

**PETITIONER'S MOTION FOR ADDITIONAL EXTENSION OF TIME
TO FILE OBJECTIONS TO REPORT AND RECOMMENDATION**

Comes the Petitioner, by counsel, and moves the Court for an extension of time of four (4) additional days to March 3, 2006, inclusive within which to file his objections to the Report and Recommendations filed by the Magistrate Judge on December 16, 2005 (Doc. 103) for the reasons set forth below.

/s/ Michael O'Hara

KEITH A. YEAZEL, (0041274)
65 South Fifth Street
Columbus, Ohio 43215
(614) 228-7005
Lead Counsel for Petitioner

MICHAEL O'HARA (KY 52530) (OH 0014966)
O'HARA, RUBERG, TAYLOR, SLOAN & SERGENT
25 Crestview Hills Mall Road, Suite 201
P. O. Box 17411
Covington, KY 41017-0411
(859) 331-2000
Co-counsel for petitioner

MEMORANDUM IN SUPPORT

Petitioner's objections to the Report and Recommendation of the Magistrate Judge was originally due January 4, 2006. The Court granted Petitioner two (2) extensions through February 27, 2006. Petitioner's counsel assure the Court that they have each worked diligently to comply with this extension. However, in spite of counsel's diligent efforts, the Memorandum of Law supporting the objections, while nearly complete, is not yet in final form. Counsel respectfully asks the Court for an additional short extension of just four (4) days, through March 3, 2006, within which to file his objections. This will provide a total extension from the original filing date of less than 60 days. This short additional extension is necessitated in part by the demands of the undersigned counsel's respective practices,¹ and by the number of issues and related record which must be reviewed and distilled in addressing each of the issues addressed by the Magistrate Judge in his Report and Recommendation on the disposition of the merits of the Petition in this case.

Petitioner does not believe that this request for an additional short extension will unfairly prejudice Respondent. Because objections are generally required to preserve issues for appeal, the courts interpreting the deadline contained in 28 U.S.C. §636(b)(1) generally contemplate reasonable extensions of time. *See, for example, Thomas v. Arn*, 474 U.S. 140, 155, rehearing denied 474 U.S. 1111 (1985), *and see, Rodriguez v Keane*,

¹ For example, Mr. O'Hara has had to devote much of the preceding 3 weeks to interviewing class members in preparation for submission of class members claims in a pending class action. The commitment to proceed with these interviews and to assist class members in processing their claims predated the Report and Recommendation. In an effort to meet the present schedule, Mr. O'Hara has transferred deposition and hearing responsibilities in other cases to another attorney in his firm. Mr. Yeazel has experienced similar demands in his criminal practice which could not have been anticipated.

2003 WL 21396667, *1, f.n.2, (S.D.N.Y., 2003). Therefore, Petitioner respectfully asks the Court to grant this additional short extension to March 3, 2006, inclusive, within which to file his objections to the Report and Recommendation.

/s/ Michael O'Hara

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65 South Fifth Street
Columbus, Ohio 43215
(614) 228-7005
Lead Counsel for Petitioner

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25 Crestview Hills Mall Road, Suite 201
P. O. Box 17411
Covington, KY 41017-0411
(859) 331-2000
Co-counsel for petitioner

CERTIFICATION

I hereby certify that I have, this 27th day of February, 2006, electronically served and filed the foregoing pleading on the following attorneys of record:

Matthew C. Hellman, Esq.
Karhlton F. Moore, Esq.
Assistant Attorney General
Capital Crimes Division
30 East Broad Street, 26th Floor
Columbus, OH 43215-3428

/s/ Michael O'Hara

MICHAEL O'HARA
O'HARA, RUBERG, TAYLOR, SLOAN & SERGENT

